

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

by deleting Section 1 of the printed bill in its entirety and substituting instead the following new sections:

SECTION 1. Tennessee Code Annotated, Section 56-1-402, is amended by adding subsections (d) - (g), as follows:

(d) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(e) (1) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required by subsection (d), an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(2) The commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

(f) Each opinion required by subsection (e) shall be governed by the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(2) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by regulation or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

(g) Every opinion shall be governed by the following provisions:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(2) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by regulation.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(3) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by regulation prescribe.

(4) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(5) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in such regulations.

(6) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(7) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in regulations by the commissioner.

(8) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided, however, that the

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

memorandum or other material may otherwise be released by the commissioner (a) with the written consent of the company or (b) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 10, is amended by adding as a new Part 3, entitled Disclosures of Material Transactions, Sections 3 through 5 of this act as new, appropriately designated sections.

SECTION 3.

(a) Every insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements unless the acquisitions and dispositions of assets or material nonrenewals, cancellations or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval or information purposes pursuant to other provisions of the insurance laws, regulations, or other requirements.

(b) The report required by subsection (a) is due within fifteen (15) days after the end of the calendar month in which any of the foregoing transactions occur.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(c) One complete copy of the report, including any exhibits or other attachments, shall be filed with:

- (1) The insurance department of the insurer's state of domicile; and
- (2) The National Association of Insurance Commissioners.

(d) All reports obtained by or disclosed to the commissioner pursuant to this part shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer who would be affected notice and an opportunity to be heard pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, determines that the interest of policyholders, shareholders or the public will be served by publication, in which event the commissioner may publish all or any part in the manner the commissioner may deem appropriate.

SECTION 4.

(a) No acquisitions or dispositions of assets need be reported pursuant to Section 3 if the acquisitions or dispositions are not material. For purposes of this part, a material acquisition (or the aggregate of any series of related acquisitions during any thirty-day period) or disposition (or the aggregate of any series of related dispositions during a thirty-day period) is one that is non-recurring and not in the ordinary course of business and involves more than five

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

percent (5%) of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.

(b) (1) Asset acquisitions subject to this part include every purchase, lease, exchange, merger, consolidation, succession or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

(2) Asset dispositions subject to this part include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction or other disposition.

(c) (1) The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

- (A) Date of the transaction;
- (B) Manner of acquisition or disposition;
- (C) Description of the assets involved;
- (D) Nature and amount of the consideration given or received;
- (E) Purpose of, or reason for, the transaction;
- (F) Manner by which the amount of consideration was determined;
- (G) Gain or loss recognized or realized as a result of the transaction; and
- (H) Name(s) of the person(s) from whom the assets were acquired or to whom they were disposed.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(2) Insurers are required to report material acquisitions and dispositions on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

SECTION 5.

(a) (1) No nonrenewals, cancellations or revisions of ceded reinsurance agreements need be reported pursuant to Section 3 if the nonrenewals, cancellations or revisions are not material. For purposes of this part, a material nonrenewal, cancellation or revision is one that affects:

(A) As respects property and casualty business, including accident and health business written by a property and casualty insurer:

- (i) More than fifty percent (50%) of the insurer's total ceded written premium; or
- (ii) More than fifty percent (50%) of the insurer's total ceded indemnity and loss adjustment reserves.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(B) As respects life, annuity, and accident and health business: more than fifty percent (50%) of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.

(C) As respects either property and casualty or life, annuity, and accident and health business, either of the following events shall constitute a material revision which must be reported:

(i) An authorized reinsurer representing more than ten percent (10%) of a total cession is replaced by one or more unauthorized reinsurers; or

(ii) Previously established collateral requirements have been reduced or waived as respects one or more unauthorized reinsurers representing collectively more than ten percent (10%) of a total cession.

(2) However, no filing shall be required if:

(A) As respects property and casualty business, including accident and health business written by a property and casualty insurer: the insurer's total ceded written premium represents, on an annualized basis, less than ten percent (10%) of its total written premium for direct and assumed business, or

(B) As respects life, annuity, and accident and health business: the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent (10%) of the statutory reserve requirement prior to any cession.

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

(b) (1) The following information is required to be disclosed in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements:

- (A) Effective date of the nonrenewal, cancellation or revision;
- (B) The description of the transaction with an identification of the initiator thereof;
- (C) Purpose of, or reason for, the transaction; and
- (D) If applicable, the identity of the replacement reinsurers.

(2) Insurers are required to report all material non-renewals, cancellations or revisions of ceded reinsurance agreements on a non-consolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100 percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

SECTION 6. Tennessee Code Annotated, Section 56-44-102(a), is amended by adding the following language at the end of subdivision (2):

Each insurer doing business in more than one (1) state, and any other insurers as required by the commissioner, shall also file with the National Association of Insurance

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

Commissioners annual and quarterly financial statement information in computer readable format as required by the Insurance Regulatory Information System.

SECTION 7. Tennessee Code Annotated, Title 56, Chapter 44 is amended by adding the following as a new, appropriately designated section:

The commissioner shall maintain as confidential all information received from the NAIC or insurance departments of other states which is confidential in those jurisdictions. However, the commissioner may share information, including otherwise confidential information, with the NAIC or insurance departments of the states so long as those jurisdictions are required, under their laws, to maintain confidentiality.

SECTION 8. Tennessee Code Annotated, Section 56-1-501(h) is amended by adding the following language:

Any determination by the independent certified public accountant that an insurer has materially misstated its financial condition as reported to the commissioner or that an insurer does not meet the minimum capital and surplus requirements of Title 56, shall be reported as set out in the rules promulgated pursuant to this section. No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with this report of adverse financial condition if such statement is made in good faith in compliance with this section and the rules promulgated pursuant to this section.

SECTION 9. Tennessee Code Annotated, Section 56-3-112, is amended by inserting after the reference to "§ 47-8-102" the phrase, ",in Euroclear".

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

SECTION 10. Tennessee Code Annotated, Section 56-3-302, is amended by adding the following new paragraphs to be appropriately numbered:

() "Bond Assets" means the amount of assets invested in bonds as reported on the balance sheet of the insurer on the most recent annual statement for the twelve (12) month period ending on the thirty-first (31st) day of December next preceding.

()"NAIC-SVO" means the securities valuation office of the national association of insurance commissioners.

()"SVO Rating" means the numerical ranking designation of one (1) through six (6) assigned to securities as determined by the NAIC-SVO.

SECTION 11. Tennessee Code Annotated, Section 56-3-303(a)(2)(B) and (a)(3)(B), are amended by inserting before the respective semicolons the following phrase:

or rated one (1), two (2) or three (3) by the NAIC-SVO

SECTION 12. Tennessee Code Annotated, Section 56-3-303(a)(13)(B)(ii), is amended by inserting between the word "lessee" and the word "has" the phrase "or guarantor of such lease or leases".

SECTION 13. Tennessee Code Annotated, Section 56-3-303(a)(13)(B)(iii), is amended by inserting between the word "lessee" and the word "under" the phrase "or guarantor of such lease" and by inserting between the word "year" and the punctuation ";" the phrase "or is rated one (1), two (2) or three (3) by the NAIC-SVO".

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

SECTION 14. Tennessee Code Annotated, Section 56-3-303(a), is amended by adding the following new paragraphs to be appropriately designated:

() Ownership interests in short-term investment pools subject to the following:

(A) Pools may invest in obligations that an insurer may acquire under this act that have (i) a maturity of 397 days or less and (ii) are rated 1 or 2 by the NAIC-SVO, or in money market funds;

(B) The maximum investment per pool is 15% of Bond Assets;

(C) The pool manager shall be organized under the laws of the United States and shall be the insurer, an affiliate of the insurer, a commercial bank or an investment advisor approved by the (i) board of directors of the insurer or (ii) a committee appointed by the insurer's board of directors to supervise investments; and

(D) The pool agreement shall be in writing and provide that (i) the participation interest in the pool is issued in the name of the insurer, (ii) all participants in the pool are affiliates, (iii) each participant may withdraw from the pool all or any portion of its interest on demand without penalty or assessment on any business day, (iv) the underlying assets of the pool are held solely for the benefit of each participant and each participant owns an undivided interest in each underlying asset, (v) the pool assets shall be held by a custodian bank in a separate account for the benefit of each pool participant, (vi) the insurer shall maintain detailed accounting records and description of all transactions, and each participant's interest which

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

shall be available for inspection by the commissioner, and (vii) any pool participant shall be entitled to terminate the pool in the event of the insolvency of any other pool participant.

() In money market funds defined by 17 CFR 220.2a-7 under the Investment Company Act of 1940 (15 U.S.C. 80a-l, et seq.) that meet one (1) of the following conditions:

(A) that the funds invest 100% of total assets in United States treasury bills, notes and bonds, and collateralized repurchase agreements comprised of those securities;

(B) that the funds invest 100% of total assets in other full faith and credit instruments of the United States; or

(C) that the funds invest at least 95% of total assets in exempt securities, short-term debt instruments with a maturity of 397 days or less, NAIC-SVO rated one obligations, and collateralized repurchase agreements comprised of those securities.

() May loan securities either directly or through its custodian bank under this subsection to a broker-dealer registered with the Securities and Exchange Commission or to a bank that is a member of the Federal Reserve System. The market value of loaned securities outstanding at any one time, excluding securities held in a separate account, shall not exceed 20% of the insurer's Bond Assets. Each loan must be evidenced by a written agreement that provides:

(A) that the loan will be fully collateralized by cash, obligations issued or guaranteed by the United States, or agency or an instrumentality thereof, or such other securities as determined by the NAIC-SVO, and that the collateral will be adjusted each business day during

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

the term of the loan to maintain the required collateral in the event of market value changes in the loaned securities or collateral;

(B) that the loan may be terminated by the insurer at any time, and that the borrower must return the loaned securities or their equivalent within five business days after termination;

(C) that the collateral shall be held either by the insurer or its custodian bank;

(D) that the insurer has the right to retain the collateral or to use the collateral to purchase securities equivalent to the loaned securities if the borrower defaults under the terms of the agreement; and

(E) that the borrower remains liable for any losses and expenses, not covered by the collateral, which are incurred by the insurer due to default.

SECTION 15. Tennessee Code Annotated, Section 56-3-304, is amended by adding the following new subsection to be appropriately designated:

The commissioner shall adopt rules authorizing insurers to invest an amount not to exceed an additional ten percent (10%) of its admitted assets in foreign investments. The rules shall establish:

- (1) investment standards; and
- (2) diversification requirements.

Prior to adoption of such rules, the commissioner may approve for a particular company a plan to make foreign investments not to exceed an additional ten percent (10%) of its admitted

House Commerce Committee Amendment

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1015 House Bill No. 1179

assets, if the commissioner determines that the plan contains adequate quality and diversification standards.

SECTION 16. Tennessee Code Annotated, Section 56-11-205(a), is amended by deleting the date "March 1" and substituting therefor the date "April 30".

AND FURTHER AMEND by redesignating current Section 2 as Section 17.